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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,710	05/10/2006	Bruce Richard Satchwell		3371

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ALIVE TECHNOLOGIES PTY LTD
11 TECHNOLOGY DRIVE
ARUNDEL, 4214
AUSTRALIA

EXAMINER

BERTRAM, ERIC D

ART UNIT	PAPER NUMBER
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3766

MAIL DATE	DELIVERY MODE
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11/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,710	Applicant(s) SATCHWELL ET AL.	
	Examiner Eric D. Bertram	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-25, 27-37 and 53-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-25, 27-37 and 53-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Response to Amendment

2. The amendment received on 1/11/2007 is acknowledged and accepted.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-10, 12-25, 27-37 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by West et al. (US 6,544,173, hereinafter West). West discloses a monitoring device 22b with a housing 94, as well as signal input components 82, 100 to receive an electrical signal carrying data representing vital signs of a patient (Col. 13, line 16-Co. 14, line 9). The housing further contains wireless communications circuitry 104 for transmitting and receiving wireless signals (Col. 14, lines 11-25 and Figure 7).
5. Regarding claims 3, 5, 6, 19 and 36, Figure 6 shows sockets that allow electrical leads to be snapped/plugged into them, thus allowing the processor to analyze the signals.
6. Regarding claims 4, 7, 16, 17, 20 and 21, the housing must inherently be able to be separated in order to allow the inner circuitry to be accessed.

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7. Regarding claims 8, 9, 22 and 23, the electrodes at the ends of the leads are considered to be “mounted on the housing” since they will be plugged into the sockets of the housing.
8. Regarding claims 10 and 37, West discloses a memory 102 connected to the processing circuitry (Col. 13, lines 51-67).
9. Regarding claims 12 and 13, West discloses the processor analyzing the signals to produce an alarm upon detection of an anomaly (Col. 15, lines 20-29).
10. Regarding claim 14, West discloses a push buttons that controls communications with a central station (Col. 14, lines 48-58).
11. Regarding claim 27, figure 24 shows a personal computer 24 for receiving data from the monitoring device.
12. Regarding claims 28-30, West discloses the PC can analyze the signals and forward the data to a central station (Col. 6, lines 1-39).
13. Regarding claim 31, West discloses a receiver that is a handheld device 52 (Col. 10, lines 26-41).
14. Regarding claim 32, West discloses the device 52 is connected to the rest of the network via a wireless protocol (see figure 4).
15. Regarding claim 55, West discloses a wireless access device 26.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

18. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

19. Claims 53, 54 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over West.

20. Regarding claims 53 and 54, West discloses that the monitoring device may be a portable monitoring device 22a, which is attached to the patient during movement (Col. 12, lines 26-47). While West is silent as to the use of an accelerometer or a GPS receiver, the use of these technologies to determine and track movement of a patient is notoriously old and well known in the art, and their inclusion in a portable patient

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monitor would have been obvious to one of ordinary skill in the art. The known advantage is that if the vital signs show a dangerous condition, it will be known that the patient moved, and where they can be located in order to be administered care.

21. Regarding claim 56, West disclose a plurality of vital signs to be monitored, including the ECG of a patient (Col. 12, lines 39-47). While West is silent as to specifically monitoring heart rate variability of a patient, this vital sign is old and well known in the art as a good indicator of cardiac arrhythmias, and its inclusion in the monitoring device would have been obvious to one of ordinary skill.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D. Bertram whose telephone number is 571-272-3446. The examiner can normally be reached on Monday-Thursday from 9:30-6 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571-272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766

/E. D. B./
Examiner, Art Unit 3766